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DOCKET NO.: C1039.70083US07

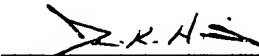
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Krieg et al.  
Serial No.: 10/789,353  
Confirmation No.: 9688  
Filed: February 26, 2004  
For: IMMUNOMODULATORY OLIGONUCLEOTIDES  
Examiner: N. Archie  
Art Unit: 1645

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**CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)**

The undersigned hereby certifies that this document is being placed in the United States mail with first-class postage attached, addressed to MAIL STOP AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the 26<sup>th</sup> day of October, 2007.

  
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Jamieson K. Herrick

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**MAIL STOP AMENDMENT**

Commissioner For Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Transmitted herewith are the following documents:


- Information Disclosure Statement
- PTO Form 1449 with cited references
- Return Receipt Postcard

If the enclosed papers are considered incomplete, the Mail Room and/or the Application Branch is respectfully requested to contact the undersigned at (617) 646-8000, Boston, Massachusetts.

A check is not enclosed. If the fee is required, the Commissioner is hereby authorized to charge Deposit Account 23/2825. A duplicate of this sheet is enclosed.

Respectfully submitted,

By:

  
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Helen C. Lockhart, Ph.D., Reg. No.: 39,248  
Wolf, Greenfield & Sacks, P.C.  
600 Atlantic Avenue  
Boston, Massachusetts 02210-2206  
Telephone: (617) 646-8000

Docket No.: C1039.70083US07  
Date: October 26, 2007  
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Jamieson K. Herrick

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**STATEMENT FILED PURSUANT TO THE DUTY OF  
DISCLOSURE UNDER 37 CFR §§1.56, 1.97 AND 1.98**

Sir:

Pursuant to the duty of disclosure under 37 C.F.R. §§1.56, 1.97 and 1.98, the Applicant requests consideration of this Information Disclosure Statement.

**PART I: Compliance with 37 C.F.R. §1.97**

This Information Disclosure Statement has been filed more than three months after the filing date of this application and after the mailing date of the first Office action, but before the mailing date of any final action under 37 C.F.R. §1.113, a Notice of Allowance under 37 C.F.R. §1.311, or an action that otherwise closes prosecution in this application.

The Applicant hereby states, as specified in 37 C.F.R. §1.97(e), that no item of information contained in this Information Disclosure Statement was cited in a communication

from a foreign Patent Office in a counterpart for this application, and, to the knowledge of the person signing the certification after making reasonable inquiry, was known to any individual designated in 37 C.F.R. §1.56(c) more than three months prior to the filing of this Statement.

No fee is required.

#### PART II: Information Cited

The Applicant hereby makes of record in the above-identified application the information listed on the attached form PTO-1449 (modified PTO/SB/08). The order of presentation of the references should not be construed as an indication of the importance of the references.

The Applicant hereby makes the following additional information of record in the above-identified application.

The Applicant would like to bring to the Examiner's attention the following other information, whose relevance is discussed in Part III below:

#### PART III: Explanation of Non-English Language References and Remarks Concerning Other Information Cited

The following are remarks concerning the other information cited:

The instant patent application derives priority from US 6,194,388 B1, which is a priority application for US 6,207,646 B1, which is a priority application for US patent application 09/337,584 with claims directed to the treatment of asthma, now in an Interference (No. 105,526). In view of the priority, copies of papers filed with respect to that Interference were previously submitted in Serial No. 10/690,495, filed October 21, 2003, to which the instant application derives priority. If the Examiner would like any additional information on this subject, she is encouraged to contact Applicant's representative at the number listed below.

#### PART IV: Remarks

Documents cited anywhere in the Information Disclosure Statement are enclosed unless otherwise indicated. It is respectfully requested that:

1. The Examiner consider completely the cited information, along with any other information, in reaching a determination concerning the patentability of the present claims;

2. The enclosed form PTO-1449 (modified PTO/SB/08) be signed by the Examiner to evidence that the cited information has been fully considered by the Patent and Trademark Office during the examination of this application;
3. The citations for the information be printed on any patent which issues from this application.

By submitting this Information Disclosure Statement, the Applicant makes no representation that a search has been performed, of the extent of any search performed, or that more relevant information does not exist.

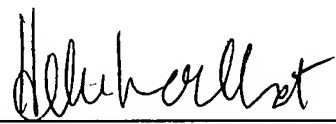
By submitting this Information Disclosure Statement, the Applicant makes no representation that the information cited in the Statement is, or is considered to be, material to patentability as defined in 37 C.F.R. §1.56(b).

By submitting this Information Disclosure Statement, the Applicant makes no representation that the information cited in the Statement is, or is considered to be, in fact, prior art as defined by 35 U.S.C. §102.

Notwithstanding any statements by the Applicant, the Examiner is urged to form his or her own conclusion regarding the relevance of the cited information.

An early and favorable action is hereby requested.

Respectfully submitted,

By:   
Helen C. Lockhart, Reg. No. 39,248  
Wolf, Greenfield & Sacks, P.C.  
600 Atlantic Avenue  
Boston, Massachusetts 02210-2206  
Telephone: (617) 646-8000

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